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8 **BEFORE THE**  
**RESPIRATORY CARE BOARD**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues Against:

Case No. 1H 2008 321

12 GUNTER DAX GARNICA  
13 4619 West Broadway  
Hawthorne, California 90250,

**STATEMENT OF ISSUES**

14 Respondent.

15  
16 Complainant alleges:

17 **PARTIES**

18 1. Stephanie Nunez (Complainant) brings this Statement of Issues solely in  
19 her official capacity as the Executive Officer of the Respiratory Care Board of California.

20 2. On or about May 16, 2008, the Respiratory Care Board of California  
21 (Board) received an application for a Respiratory Care Practitioner License from Gunter Dax  
22 Garnica (Respondent). On or about May 6, 2008, Gunter Dax Garnica certified under penalty of  
23 perjury to the truthfulness of all statements, answers, and representations in the application. The  
24 Board denied the application on December 3, 2008.

25 **JURISDICTION**

26 3. This Statement of Issues is brought before the Board under the authority of  
27 the following laws. All section references are to the Business and Professions Code unless  
28 otherwise indicated.

1                   4.       Section 3710 of the Code states: “The Respiratory Care Board of  
2 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter  
3 8.3, the Respiratory Care Practice Act].”

4                   5.       Section 3718 of the Code states: “The board shall issue, deny, suspend,  
5 and revoke licenses to practice respiratory care as provided in this chapter.”

6                   6.       Section 3750 of the Code, in pertinent part, provides:

7                   “The board may order the denial, suspension or revocation of, or the imposition of  
8 probationary conditions upon, a license issued under this chapter, for any of the following  
9 causes:

10                  “... .

11                  “(j) The commission of any fraudulent, dishonest, or corrupt act which is  
12 substantially related to the qualifications, functions, or duties of a respiratory care  
13 practitioner.

14                  “... .”

15                  7.       Section 3753.5, subdivision (a), of the Code states:

16                  “In any order issued in resolution of a disciplinary proceeding before the board,  
17 the board or the administrative law judge may direct any practitioner or applicant found to have  
18 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the  
19 investigation and prosecution of the case.”

20                  8.       Section 3753.7 of the Code states:

21                  “For purposes of the Respiratory Care Practice Act, costs of prosecution shall  
22 include attorney general or other prosecuting attorney fees, expert witness fees, and other  
23 administrative, filing, and service fees.”

24                  9.       Section 3753.1, subdivision (a) of the Code states:

25                  “An administrative disciplinary decision imposing terms of probation may  
26 include, among other things, a requirement that the licensee-probationer pay the monetary costs  
27 associated with monitoring the probation.”

1 **CAUSE FOR DENIAL OF APPLICATION**

2 **(Commission of Dishonest or Corrupt Acts)**

3 10. Respondent's application for a Respiratory Care Practitioner License is  
4 subject to denial under Business and Professions Code section 3750, subdivision (j), in that  
5 Respondent, between 1985 and 1988, committed a series of dishonest or corrupt acts  
6 substantially related to the qualifications, functions, or duties of a respiratory care practitioner, as  
7 follows:

8 A. On or about May 12, 1985, Respondent, his brother, and  
9 five of their friends committed nine separate burglaries.

10 B. On or about August 28, 1985, Respondent tampered with a  
11 vehicle, not his own, and without the owner's consent. At the time, the vehicle, a  
12 bulldozer, was unattended and parked at a construction site.

13 C. On or about July 30, 1986, Respondent painted graffiti on  
14 the side of a public bus.

15 D. On or about February 13, 1987, Respondent attempted to  
16 enter a locked automobile for the purpose of stealing a shopping bag containing  
17 purchases made at a Nordstrom's department store.

18 E. On or about July 23, 1987, Respondent shoplifted three  
19 cans of spray paint from a Woolworth's department store.

20 F. On or about April 23, 1988, Respondent participated in a  
21 fight between two rival gangs during which Respondent discharged a firearm,  
22 killing one gang member and nearly injuring three others.

23 **CIRCUMSTANCES IN MITIGATION**

24 11. All of the acts described in paragraph 10, above, were committed by  
25 Respondent when he was between the ages of 13 and 16; and, for that reason, and because there  
26 was no finding that Respondent was unfit for juvenile court, Respondent was not tried criminally  
27 for these acts.

28 12. Between the ages of 16 and 23, Respondent was housed at the California

1 Youth Authority.

2 13. Since being housed at the California Youth Authority, Respondent has not  
3 been arrested, let alone convicted, for any crime.

4 **PRAYER**

5 **WHEREFORE**, Complainant requests that a hearing be held on the matters  
6 herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

7 1. Denying the application of Respondent Gunter Dax Garnica for a  
8 Respiratory Care Practitioner License; or, in the alternative, issuing a probationary Respiratory  
9 Care Practitioner License to Respondent Gunter Dax Garnica;

10 2. Directing Respondent Gunter Dax Garnica to pay the Respiratory Care  
11 Board of California the costs of the investigation and enforcement of this case, and if placed on  
12 probation, the costs of probation monitoring; and,

13 3. Taking such other and further action as deemed necessary and proper.

14  
15 DATED: April 7, 2009

16  
17  
18 Original signed by Colleen Whitestine for:  
19 STEPHANIE NUNEZ  
20 Executive Officer  
21 Respiratory Care Board of California  
22 State of California  
23 Complainant  
24

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